

MITIGATED NEGATIVE DECLARATION

March 15, 2007

Project Name: Law Tentative Parcel Map

Project Numbers: TPM 20991, Log No. 06-14-002

**This Document is Considered Draft Until it is Adopted by the Appropriate
County of San Diego Decision-Making Body.**

This Mitigated Negative Declaration is comprised of this form along with the Environmental Initial Study that includes the following:

- a. Initial Study Form
 - b. Environmental Analysis Form and attached extended studies for Noise, Cultural, Drainage, and Stormwater Management.
1. California Environmental Quality Act Mitigated Negative Declaration Findings:

Find, that this Mitigated Negative Declaration reflects the decision-making body's independent judgment and analysis, and; that the decision-making body has reviewed and considered the information contained in this Mitigated Negative Declaration and the comments received during the public review period; and that revisions in the project plans or proposals made by or agreed to by the project applicant would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur; and, on the basis of the whole record before the decision-making body (including this Mitigated Negative Declaration) that there is no substantial evidence that the project as revised will have a significant effect on the environment.
2. Required Mitigation Measures:

Refer to the attached Environmental Initial Study for the rationale for requiring the following measures:

A. TRANSPORTATION

1. The payment of the Transportation Impact Fee, which will be required at issuance of building permits, in combination with other components of this program, will mitigate potential cumulative traffic impacts to less than significant.

B. NOISE

On the Final Tentative Parcel Map 20991 the applicant shall:

Grant to the County of San Diego a Noise Protection Easement over the entire area of Lot(s) 1, 2 & 3 of Tentative Parcel Map 20991. This easement is for the mitigation of present and anticipated future excess noise levels on residential uses of the affected lot(s). The easement shall require:

Prior to the issuance of any building permit for any residential use within the noise protection easement, the applicant shall:

1. Complete to the satisfaction of the Director of the Department of Planning and Land Use, an acoustical analysis performed by a County certified acoustical engineer, demonstrating that the present and anticipated future noise levels for the interior and exterior of the residential dwelling will not exceed the allowable sound level limit of the Noise Element of the San Diego County General Plan [exterior (60 dB CNEL), interior (45 dB CNEL)]. Future traffic noise level estimates for Chase Avenue, must utilize a Level of Service "C" traffic flow for a major road classification which is the designated General Plan Circulation Element buildout roadway classification.
2. Incorporate to the satisfaction of the Director of the Department of Planning and Land Use all of the recommendations or mitigation measures of the acoustical analysis into the project design and building plans.

C. ARCHAEOLOGY

1. Implement a grading monitoring and data recovery program to mitigate potential impacts to undiscovered buried archaeological resources on the Brayton Way/Law Project, TPM 20991, Log No. 06-14-002 to the satisfaction of the Director of Planning and Land

Use (DPLU). This program shall include, but shall not be limited to, the following actions:

- a. Provide evidence that a County approved archaeologist has been contracted to implement a grading monitoring and data recovery program to the satisfaction of the Director of Planning and Land Use (DPLU). A letter from the Principal Investigator shall be submitted to the Director of Planning and Land Use. The letter shall include the following guidelines:
 - (1) The project archaeologist shall contract with a Native American monitor to be involved with the grading monitoring program as outlined in the County of San Diego Report Format and Content Guidelines (2006).
 - (2) The County approved archaeologist/historian and Native American monitor shall attend the pre-grading meeting with the contractors to explain and coordinate the requirements of the monitoring program as outlined in the County of San Diego Report Format and Content Guidelines (2006).
 - (3) The project archaeologist shall monitor all areas identified for development including off-site improvements.
 - (4) An adequate number of monitors (archaeological/Native American) shall be present to ensure that all earth moving activities are observed and shall be on-site during all grading activities for areas to be monitored.
 - (5) During the original cutting of previously undisturbed deposits, the archaeological monitor(s) and Native American monitor(s) shall be onsite, as determined by the Principal Investigator of the excavations. Inspections will vary based on the rate of excavation, the materials excavated, and the presence and abundance of artifacts and features. The frequency and location of inspections will be determined by the Principal Investigator in consultation with the Native American monitor. Monitoring of cutting of previously

disturbed deposits will be determined by the Principal Investigator.

- (6) Isolates and clearly non-significant deposits shall be minimally documented in the field and the monitored grading can proceed.
- (7) In the event that previously unidentified potentially significant cultural resources are discovered, the archaeologist shall have the authority to divert or temporarily halt ground disturbance operations in the area of discovery to allow evaluation of potentially significant cultural resources. The archaeologist shall contact the County Archaeologist at the time of discovery. The archaeologist, in consultation with County staff archaeologist, shall determine the significance of the discovered resources. The County Archaeologist must concur with the evaluation before construction activities will be allowed to resume in the affected area. For significant cultural resources, a Research Design and Data Recovery Program to mitigate impacts shall be prepared by the Principal Investigator and approved by the County Archaeologist, then carried out using professional archaeological methods.
- (8) If any human bones are discovered, the Principal Investigator shall contact the County Coroner. In the event that the remains are determined to be of Native American origin, the Most Likely Descendant, as identified by the Native American Heritage Commission, shall be contacted in order to determine proper treatment and disposition of the remains.
- (9) Before construction activities are allowed to resume in the affected area, the artifacts shall be recovered and features recorded using professional archaeological methods. The Principal Investigator shall determine the amount of material to be recovered for an adequate artifact sample for analysis.

- (10) In the event that previously unidentified cultural resources are discovered, all cultural material collected during the grading monitoring program shall be processed and curated at a San Diego facility that meets federal standards per 36 CFR Part 79, and therefore would be professionally curated and made available to other archaeologists/researchers for further study. The collections and associated records shall be transferred, including title, to an appropriate curation facility within San Diego County, to be accompanied by payment of the fees necessary for permanent curation. Evidence shall be in the form of a letter from the curation facility identifying that archaeological materials have been received and that all fees have been paid.
 - (11) In the event that previously unidentified cultural resources are discovered, a report documenting the field and analysis results and interpreting the artifact and research data within the research context shall be completed and submitted to the satisfaction of the Director of Planning and Land Use prior to the issuance of any building permits. The report will include Department of Parks and Recreation Primary and Archaeological Site forms.
 - (12) In the event that no cultural resources are discovered, a brief letter to that effect shall be sent to the Director of Planning and Land Use by the consulting archaeologist that the grading monitoring activities have been completed.
2. Provide Evidence to the Director of Public Works (DPW) that the following notes have been placed on the Grading Plan:
- a. The County certified archaeologist/historian and Native American monitor shall attend the pre-construction meeting with the contractors to explain and coordinate the requirements of the monitoring program.
 - b. During the original cutting of previously undisturbed deposits, the archaeological monitor(s) and Native American monitor(s) shall be on-site, as determined by the Principal

Investigator of the excavations. The frequency and location of inspections will be determined by the Principal Investigator in consultation with the Native American monitor. Monitoring of cutting of previously disturbed deposits will be determined by the Principal Investigator.

- c. In the event that previously unidentified potentially significant cultural resources are discovered, the archaeological monitor(s) shall have the authority to divert or temporarily halt ground disturbance operation in the area of discovery to allow evaluation of potentially significant cultural resources. The Principal Investigator shall contact the County Archaeologist at the time of discovery. The Principal Investigator, in consultation with County staff archaeologist, shall determine the significance of the discovered resources. The County Archaeologist must concur with the evaluation before construction activities will be allowed to resume in the affected area. For significant cultural resources, a Research Design and Data Recovery Program to mitigate impacts shall be prepared by the consulting archaeologist and approved by the County Archaeologist, then carried out using professional archaeological methods.
- d. The consulting archaeologist shall monitor all areas identified for development including off-site improvements.
- e. If any human bones are discovered, the Principal Investigator shall contact the County Coroner. In the event that the remains are determined to be of Native American origin, the Most Likely Descendant, as identified by the Native American Heritage Commission, shall be contacted in order to determine proper treatment and disposition of the remains.
- f. Prior to rough grading inspection sign-off, provide evidence that the field grading monitoring activities have been completed to the satisfaction of the Director of Planning and Land Use. Evidence shall be in the form of a letter from the Principal Investigator.
- g. Prior to Final Grading Release, submit to the satisfaction of the Director of Planning and Land Use, a final report of the Archaeological Monitoring Program.

- h. In the event that no cultural resources are discovered, a brief letter to that effect shall be sent to the Director of Planning and Land Use by the consulting archaeologist that the grading monitoring activities have been completed.

Or

- i. In the event that resources are found, a detailed report shall be required that includes the following:
 - (1) Department of Parks and Recreation Primary and Archaeological Site forms.
 - (2) Evidence that all cultural materials collected during the grading monitoring program has been curated at a San Diego facility that meets federal standards per 36 CFR Part 79, and therefore would be professionally curated and made available to other archaeologists/researchers for further study. The collections and associated records shall be transferred, including title, to an appropriate curation facility within San Diego County, to be accompanied by payment of the fees necessary for permanent curation. Evidence shall be in the form of a letter from the curation facility identifying that archaeological materials have been received and that all fees have been paid.

Or

- 3. Enter into a Secured Agreement with the County of San Diego, Department of Planning and Land Use, secured by a letter of credit, bond, or cash for 150 percent of the estimated costs associated with the preparation of the Final Report that documents the results, analysis, and conclusions of all phases of the Archaeological Monitoring Program, and a 10 percent cash deposit not to exceed \$30,000. A cost estimate shall be submitted and approved by the Director of Planning and Land Use for the cost of preparing the Final Grading Monitoring that includes artifact analysis, and specialized studies such as lithics analysis, ceramics analysis, faunal analysis, floral

analysis, assemblage analysis, radiocarbon dating, and curation as determined by the Principal Investigator in consultation with County Staff Archaeologist.

3. Critical Project Design Elements That Must Become Conditions of Approval:

The following project design elements were either proposed in the project application or the result of compliance with specific environmental laws and regulations and were essential in reaching the conclusions within the attached Environmental Initial Study. While the following are not technically mitigation measures, their implementation must be assured to avoid potentially significant environmental effects.

A. PUBLIC ROAD IMPROVEMENTS [DPW] [FIRE}

1. Provide a 10-foot wide left turn lane for left turning movements from Chase Avenue to the private road. This will also require restriping. The existing striping needs to be removed by sand blasting. The use of black paint over the existing striping will not be allowed when the new striping is installed. All of the foregoing shall be to the satisfaction of the Director of Public Works.

B. STORMWATER MANAGEMENT [DPW]

1. For the duration of this project-Comply with all applicable stormwater regulations at all times. The activities proposed under this application are subject to enforcement under permits from the San Diego Regional Water Quality Control Board (RWQCB) and the County of San Diego Watershed Protection, Stormwater Management, and Discharge Control Ordinance (Ordinance No. 9424 and Ordinance No. 9426) and all other applicable ordinances and standards. This includes requirements for materials and wastes control, erosion control, and sediment control on the project site. Projects that involve areas greater than one (1) acre require that the property owner keep additional and updated information onsite concerning stormwater runoff. This requirement shall be to the satisfaction of the Director of Public Works.

C. SWEETWATER AUTHORITY

1. The subdivider shall present evidence to the Department of Public Works from the Sweetwater Authority stating that Sweetwater Resolution 84-8 has been satisfied with respect to the protection of Sweetwater Reservoir from urban related runoff resulting from this development. Compliance is in the form of a County imposed fee paid to the Sweetwater Authority. The Director of Planning and Land Use hereby determines that:
 - a. The purpose of the fee is to assist in financing the design and construction of first flush urban runoff facilities to protect the water in the Sweetwater Reservoir as specified in the Sweetwater Authority's Resolution 84-8, Resolution of the Governing Board of Sweetwater Authority Establishing Its Policy Regarding Urban Runoff Protection For The Sweetwater Reservoir, and the Luke-Dudek Design Study dated September 1, 1982, located in the office of the Sweetwater Authority.
 - b. This development will cause additional urban runoff within the Sweetwater Reservoir watershed, which ultimately will flow into the Sweetwater Reservoir, adding to potential health problems. Incremental degradation of the water in the Sweetwater Reservoir resulting from urban runoff caused by this project needs to be mitigated by constructing specific low capture and diversion structures to prevent contamination of the Sweetwater Reservoir.
 - c. The fees paid to the Sweetwater Authority to protect the water in the Sweetwater Reservoir are based on estimated costs of the first flush bypass facilities planned for the drainage area and on this project's total percentage impact on the Sweetwater Reservoir. [DPLU]

ADOPTION STATEMENT: This Mitigated Negative Declaration was adopted and above California Environmental Quality Act findings made by the:

on _____

DEVON MUTO, Planning Manager
Regulatory Planning Division

DM:JR:jcr

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